

WPA 20290 of 2025

Subhash Dutta
Vs.
The State Bank of India & Ors.

Mr. Abhijit Chakraborty
.... for the petitioner

Mr. Pijush Kanti Ray
Mr. Sourajit Mukherjee
.... for the respondent Bank

1. Let affidavit-of-service, as filed in Court, be kept on record.
2. Mr. Chakraborty submits that the petitioner is aggrieved by the continued inaction of the Bank in not acting in consonance with the order passed by the Debts Recovery Tribunal-II, Kolkata, directing the Bank to hand over the possession of the immovable security asset to the applicant on September 23, 2013. The said order was carried in appeal by the Bank which was dismissed on August 1, 2017.
3. He further submits that the petitioner is entitled to get back possession of such asset in terms of the order of the Tribunal. The petitioner presently seeks enforcement and/or execution of the order

of the Debts Recovery Tribunal, which has merged with the order of the Appellate Tribunal.

4. Mr. Ray, learned Advocate appearing for the respondent Bank, states that the petition is ominously silent about an Execution Case being MA/08 of 2020, filed by the petitioner, before the Debts Recovery Tribunal-II, Kolkata under the Recovery of Debts and Bankruptcy Act, 1993. The said application was dismissed for default on December 13, 2021.
5. Mr. Ray further submits that the Bank has already handed over possession of the said premises to the highest bidder on June 18, 2013 and produced a Sale Certificate in this respect, a copy of which is kept on record.
6. I have heard the learned Advocates for both parties and perused the records.
7. The Bank was present when the order of September 23, 2013, was passed and was aware that the sale conducting on April 9, 2013, had been set aside and that it had been directed to restore physical possession of the secured asset to the applicant, being the petitioner herein. In spite of the specific direction by the Tribunal to hand over the possession of the immovable secured asset to the applicant within a period of four weeks, the Bank has not only failed to do so but

has acted in utter disregard of the order passed by the Tribunal and the Appellate Tribunal, in not handing back possession to the petitioner. The Bank was duty bound to act in terms of the order dated September 23, 2013, as upheld by the Appellate Tribunal on August 1, 2017. Not having done so, the acts of commission and/or omission of the Bank and its functionaries are regrettable and cannot be condoned in any manner. In fact, the Bank has permitted the purchaser to continue to be in possession of the said property, for more than 12 years.

8. The petitioner has also not approached this Court with clean hands, suppressing the application being MA/08 of 2020, which was unceremoniously dismissed on account of the petitioner's inability to attend the same.
9. The petitioner, however, is granted liberty to proceed before the appropriate forum under the Recovery of Debts and Bankruptcy Act, 1993, to seek execution of the order dated 1st August, 2017. The Tribunal will take up the matter on an urgent basis and dispose of the same as expeditiously as possible.
10. The writ petition is, thus, disposed of with the aforestated directions.
11. There shall, however, be no order as to costs.

12. Since no affidavit has been called for, the allegations contained in the writ petition are deemed to be denied.

13. Urgent photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Reetobroto Kumar Mitra, J.)